



05-16-05

Attorney's Docket No.: 17101-017003

John
HW
1455

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Emory V. Anderson et al.

Art Unit : 1641

Serial No. : 09/717,478

Examiner : Davis, D. A.

Filed : November 20, 2000

Patent No. : 6,867,051

Issue Date : March 15, 2005

Title : POINT OF CARE DIAGNOSTIC SYSTEMS

MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(d)

Applicant hereby petitions for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent at time of issuance. Attached herewith is a copy of the *Issue Notification* and updated *Determination of Patent Term Adjustment* under 35 U.S.C. 154(b). The Notification states that the Total Patent Term Adjustment at issuance is 20 days. Reconsideration of the PTA to reasonably reduce the APPL Delay from 162 days to 42 days, as it was at allowance, and increase Total PTA from 20 to 140 days, is respectfully requested.

The Patent Term Adjustment History in the PAIR system reflects that the U.S. Patent and Trademark Office (PTO) calculated the PTA as follows.

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify under 37 CFR §1.10 that this correspondence is being deposited with the United States Postal Service as Express Mail Label No. EV-399296219-US on the date indicated below and is addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

May 13, 2005

Date of Deposit

Signature

Stephanie L. Seidman

Typed or Printed Name of Person Signing Certificate

05/17/2005 BABRAHA2 00000108 09717478

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Applicant : Emory V. Anderson et al.
Patent No. : 6,867,051
Issued : March 15, 2005
Serial No. : 09/717,478
Filed : November 20, 2000
Page : 2 of 4

Attorney's Docket No.: 17101-017003
(Prior Docket No. 24727-813C)

(1) 14-Month PTO First Action due 01/20/2002: PTO mailed a non-final rejection on 05/22/2002 in response to the initial filing on 11/20/2000; Applicant agrees with the PTO delay of 122 days in consideration of the 05/22/2002 mail date;

(2) PTO Office Action and Response to APPL Amendment due 06/19/2003: PTO mailed a Final rejection on 08/04/2003 in response to APPL amendment of 02/19/2003; Applicant agrees with the PTO delay of 46 days in consideration of the 08/04/2003 mail date;

(3) APPL response to Final rejection due 02/19/2004: APPL filed Amendment After Final on 04/01/2004 days; Applicant agrees with delay of 42 days;

(4) PTO Office Action and Response to APPL Amendment After Final due 08/01/2004: PTO mailed a Notice of Allowance on 08/05/2004; Applicant agrees with the PTO delay of 4 days in consideration of the mail date of 08/05/2004;

(5) APPL submission of Drawings after Notice of Allowance on 08/23/2004 accorded an APPL Delay of the maximum 120 days.

Applicant respectfully requests the removal of the APPL Delay of this 120 days in consideration of the following.

The *Notice of Allowance* mailed 08/05/2004 included a drawing requirement. Applicant believed this requirement to be in error based on Formal Drawings filed on 08/22/2002 which incorporated all amendments to that date, and the fact that no further amendments to the drawings were made since the 08/22/2002 drawing submission and the Allowance date of 08/05/2004. Inquiries into this drawing requirement indicated it was a PTO error as drawings were inadvertently written on during examination and made unprintable. APPL, therefore, submitted drawings to overcome this problem (see attached). In evidence of the marked

Applicant : Emory V. Anderson et al.
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(Prior Docket No. 24727-813C)

drawings, Applicant received the following communication from PTO Publications explaining the requirement for drawings:

“09/717478 - Drawings received prior to allowance dated 08/22/02 were considered OK, however during examination the drawings were written on. This made certain figures unprintable. The drawings submitted 08/23/04 was necessary for printing purposes. The newly submitted drawings are acceptable.” (copy attached); and

(6) PTO Issuance due 03/05/2005: PTO issued the present Patent on 03/15/2005 after receipt of the payment of Issue Fee on 11/05/2004; Applicant agrees with the PTO Delay of 10 days in consideration of the 03/15/2005 issue date.

In consideration of the foregoing evidence for the APPL delay described in point (5), Applicant respectfully submits that the submission of drawings after allowance was unavoidable and does not constitute a failure to engage in reasonable efforts to conclude processing or examination of an application pursuant to 37 CFR 1.704(c)(10). As such, Applicant requests that Patent Term Adjustment be recalculated as follows:

- PTO Delay correct at 182 days
- APPL Delay be reduced from 162 to 40 days
- Total PTA be increased from 20 days to 140 days

Enclosed is a check for \$200 to cover the fee for this petition. Please apply any other charges or credits to Deposit Account No. 06-1050.

Applicant : Emory V. Anderson et al.
Patent No. : 6,867,051
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Page : 4 of 4

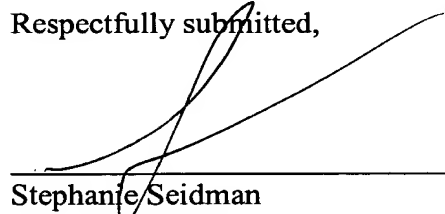
Attorney's Docket No.: 17101-017003
(Prior Docket No. 24727-813C)

Copies of the following items are provided:

- (1) The *Issue Notification and Determination of Patent Term Adjustment* as of the issue date March 15, 2005;
- (2) The *Transmittal of Formal Drawings* dated August 23, 2004 which states the history of submitted drawings; and
- (3) Communication from PTO Publications regarding the marked drawings which necessitated the re-submission of drawings after allowance.

If any additional supporting documentation is required during your review, or there are any questions, please contact the undersigned. Thank you for your consideration.

Respectfully submitted,



Stephanie Seidman
Reg. No. 33,779

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (619) 501-5091
Facsimile: (858) 678-5099

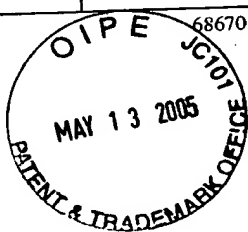


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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,478	03/15/2005	6867051	24727-813C 17101-07003	9900

20985 7590 02/23/2005
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081



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MAR 14 2005

FISH & RICHARDSON, PC.
SAN DIEGO

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 20 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

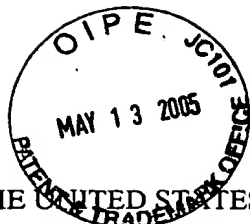
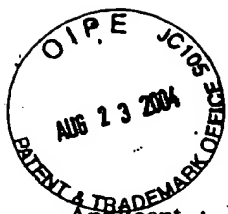
Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

APPLICANT(s) (up to 18 names are included below, see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Emory V. Anderson, Danville, CA;
Jerome Lapointe, Oakland, CA;
Ricardo Martinez, Santa Cruz, CA;
Gail Marzolf, Cupertino, CA;
Ronald Pong, San Jose, CA;
Lynn Jones, Mountain View, CA;
Robert O. Hussa, Sunnyvale, CA;
Edward Nemec, Duluth, GA;
Andrew E. Senyei, La Jolla, CA;
Duane DeSieno, La Jolla, CA;

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08-25-04

Attorney's Docket No.: 17101-017003 / 813C

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Emory V. Anderson, et al.

Art Unit : 1641

Serial No. : 09/717,478

Examiner : Davis, D. A.

Filed : November 20, 2000

Confirmation No.: 9900

Customer No: 20985

Notice of Allowance Date: August 5, 2004

Title : POINT OF CARE DIAGNOSTIC SYSTEMS

MAIL STOP ISSUE FEE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

COPY

TRANSMITTAL OF FORMAL DRAWINGS

Dear Sir:

Transmitted herewith are fifteen (15) sheets of formal drawings containing Figures 1 through 25 for filing in connection with the above-identified application. These drawings are identical to the formal drawings filed on August 22, 2002 with the Drawing Review Branch. They incorporate any and all amendments to the drawings filed. No amendments to the drawings have been filed since the filing of these Formal Drawings on August 22, 2002. Also enclosed is a copy of the date-stamped postcard mailed by the OIPE upon their receipt of the Formal Drawings.

- [X] The Commissioner is hereby authorized to charge any fees that may be due under 37 C.F.R. §§ 1.16-1.17 in connection with this paper or with this application during its entire pendency to Deposit Account No. 06-1050. A duplicate of this sheet is enclosed.

Respectfully submitted,

Stephanie L. Seidman
Reg. No. 33,779

Attorney Docket No. 17101-017003 / 813C

Address all correspondence to:

Stephanie L. Seidman, Esq.

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12390 El Camino Real

San Diego, California 92130

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Facsimile: (202) 626-7796

seidman@fr.com

10426898.doc

CERTIFICATE OF MAILING BY "EXPRESS MAIL"
"Express Mail" Mailing Label Number EV 399295862 US
Date of Deposit August 23, 2004
I hereby certify that this paper is being deposited with the United States Postal "Express Mail Post Office to Addressee" Service under 37 CFR §1.10 on the date indicated above and is addressed to: Mail Stop Issue Fee, Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Stephanie L. Seidman



BEST AVAILABLE COPY

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17101- 017003 (813c)

Judith Sherman

From: Hood, Toni [Toni.Hood@USPTO.GOV]
Sent: Wednesday, October 27, 2004 10:00 AM
To: Judith Sherman
Subject: RE: Request for assistance re drawings on recently allowed cases

09/717478 - Drawings received prior to allowance dated 08/22/02 were considered OK, however during examination the drawings were written on. This made certain figures unprintable. The drawings submitted 08/23/04 was necessary for printing purposes. The newly submitted drawings are acceptable.

09/717355 - Since this is a traditional file and the file is not available, it is not accurate for me to say that the drawings submitted prior to allowance were OK. The only drawings available for review without the file are the drawings dated 09/30/04. These drawings are acceptable. The location on this file still shows that it is in 1600, I cannot confirm that, however all indications show that it is there.


Toni M. Hood
Quality Control Specialist
703-578-6811

COPY



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 FISH & RICHARDSON P.C.

115 Franklin Street
Boston, Massachusetts
02110-1111

c 188891

PAY Two hundred dollars DOLLARS

TO THE ORDER OF	DATE	AMOUNT
COMMISSIONER OF PATENTS AND TRADEMARKS	05/12/05	\$200.00

17101-017003 jws - PTA Petition

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South Portland, ME

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